IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1184 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PINAKIN B AMIN

Versus

GSRTC

Appearance:

MR RN SHAH for Appellant No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 30/01/2002

ORAL JUDGEMENT

In this appeal which is filed under Section 96 of the Code of Civil Procedure, the appellant - original plaintiff seeks to challenge the judgement and decree dated November 12, 1981 passed in Special Civil Suit No.288 of 1977 by the learned 2nd Joint Civil Judge (S.D.), Nadiad by which suit filed by the appellant is partly decreed and the respondent was ordered to pay to the appellant a sum of Rs.1,870/= together with the interest of 6% p.a. on this amount from the date of the

suit, till realisation of full amount to the appellant alongwith the costs of the suit.

2. The appellant was the owner of an agricultural land bearing Survey No.1/4 situated at Mahudha, Taluka Nadiad, admeasuring about 1 acre and 4 gunthas prior to year 1972. The respondent contemplated to construct a S.T. Bus Depot at Mahudha. The respondent has selected two sites for the purpose of construction of new depot, one at Mahudha and the other at the adjoining village Kahlal. The leaders of Mahudha village approached the appellant and successfully persuaded the appellant to give his land for the construction of S.T. Bus Stand. Therefore, the appellant agreed to hand over the possession of the said land on the terms and conditions contained in his letter dated 01.09.1972 addressed to the Divisional Office of the respondent situated at Nadiad. As per the terms and conditions of the said letter, the respondent has to pay to the appellant rent for the use and occupation of the said land until determination of award of the Land Acquisition Officer. The respondent wrongly interpreted the terms of the said agreement and refused to pay the rent. The appellant has also filed the statement of claim under the provisions of the Land Acquisition Act before the Collector of Kheda and claimed the rent for the said period at Rs.200/- p.m.. The Collector, Kheda passed an award dated 30.04.1976, declined to arbitrate on the said matter by contending inter alia that the said matter was beyond the scope of the provisions of the Land Acquisition Act as the parties had between themselves privately negotiated in that behalf. According to the appellant, the respondent refused to pay the amount of rent for the period commencing from 01.09.1972 to 30.04.1976 i.e. the period from which the award was published. In all Rs.8800/= due from the respondent and, therefore, the appellant filed suit to recover the said amount at the rate of 18% interest together with costs.

3. The respondent on being served resisted the suit by filing written statement at Exh.18 wherein the respondent denied the averments made in the plaint and contended that as per the letter dated 01.09.1972, the appellant had agreed to accept the interest in lieu of rent from the date of handing over the possession of the suit land on the amount which would be fixed by the award. Which clearly means that the rent will be fixed on the same rate as interest in the award on the awarded amount. It is admitted by the respondent that the rent is agreed to be paid to the appellant from the date of possession till the date of award by the Land Acquisition

Officer, on the awarded amount. Ultimately, it is denied by the respondent that the appellant is entitled to any amount claimed in the suit and, therefore, it was prayed to dismiss the suit.

4. On the pleadings of the parties the learned Judge framed issues at Exh.19 and on appreciation and evaluation of the evidence and more particularly by relying upon Exh.39, which is the letter dated 01.09.1972, came to the conclusion that the appellant has failed to prove that the respondent has agreed to pay rent of the suit land at of Rs.200/= p.m. till the date of award and, therefore, the appellant is not entitled to Rs.8800/= as claimed in the plaint. However, it is held by the trial Court that the appellant is entitled to Rs.1,870/= as loss of interest in lieu of the rent from the suit land on the amount which was fixed by the award together with the interest and costs. It is this judgement and decree which is under challenge in this appeal at the instance of the appellant - original plaintiff.

5. Mr.R.N.Shah, learned advocate for the appellant contended that the trial Court has wrongly interpreted Exh.39 which is the letter dated 01.09.1972 written by the appellant to the respondent which has resulted into miscarriage of justice and, therefore, the appeal deserves to be allowed by passing the decree as prayed for in the plaint instead of partly allowed by the trial Court.

6. I have considered the submissions made by Mr.R.N.Shah and perused the memo of appeal, the grounds set out therein, the impugned judgement and the evidence adduced by the parties before the trial Court. On having perusal of the judgement of the trial Court in para 6 of the judgement, the trial Court has quoted Exh.39 verbatim in vernacular language and interpreted that the rent was to be paid in lieu of interest, on the compensation which was to be awarded and the rent was not fixed at the time of entering into the agreement with the respondent by the appellant.

7. On reappreciation and evaluation of Exh.39, I fully endorsed the interpretation made by the trial Court. No other interpretation is permissible or possible. The trial Court thereafter considered the period of 01.09.1972 to 30.04.1976 i.e. the period on which the possession was handed over till the award was passed. The said period is three years and eight months. The trial Court thereafter calculated the awarded amount

of compensation at the rate of 6% p.a. for the said period and reached to the conclusion that the appellant is entitled to Rs.1,870/= by way of loss of interest for the said period and passed the decree for the said amount.

8. According to me, the trial Court has very rightly interpreted Exh.39 and held that the appellant is entitled to loss of interest on the awarded amount for a period commencing from 01.07.1972 to 30.04.1976. On the facts and in the circumstances of the case, the trial Court has not committed any error either in law and facts and in interpreting Exh.39.

9. In above view of the matter, I find myself in complete agreement with the reasoning adopted by the trial Court and findings arrived by it and, therefore, I do not see any justifiable reason or valid grounds to interfere with the impugned judgement and decree.

10. It is settled legal position that even at the final hearing state when the appellant Court agrees with the reasons given and conclusions arrived at by the trial Court, it is not necessary for the appellate Court to reiterate the evidence and elaborately state reasons for reaching the same conclusion. Expression of general agreement with the reasons given and conclusions arrived at by the trial Court would be sufficient. This is so held by the Supreme Court in the case of GIRIJANNANIDI DEVI AND OTHERS Vs. BIJENDRA NARAIN CHOUDHARY, A.I.R. 1967 SC 1124

11. Seen in the above context, there is no merit in the appeal and, therefore, the same is liable to be dismissed.

12. For the forgoing reasons, the appeal fails and accordingly it is dismissed with no order as to costs.

(A.M.Kapadia, J)
'Bhavesh'